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The Honorable Edward F. Shea

FILED IN THE
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF WASHINGTON

JUN 10 2005

JAMES R. LARSEN, CLERK
 RICHLAND DEPUTY

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UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF WASHINGTON
 AT SPOKANE

JOHN HURLEY, SONJA RODGERS,
 JEFFREY FOREMAN, JENNIFER
 FRANKLIN, and LOLITA PERREIRA,
 on their behalf and on behalf of a class
 of similarly situated plaintiffs,

Plaintiffs,

v

U.S. HEALTHWORKS MEDICAL
 GROUP OF WASHINGTON, P.S., a
 Washington professional services
 corporation; U.S. HEALTHWORKS OF
 WASHINGTON, INC., a Washington
 corporation; U.S. HEALTHWORKS,
 INC., Delaware corporation, and U.S.
 HEALTHWORKS HOLDING
 COMPANY, INC., a Delaware
 corporation,

Defendants.

Case No.: 2:CV-05-17-EFS

~~[PROPOSED]~~ PROTECTIVE ORDER

CLERK'S ACTION REQUIRED

TO THE CLERK: The Clerk of this Court is directed to enter the following
 Protective Order effective as of the date signed below.

THIS MATTER, having come regularly before the court on the parties'
 Stipulated Motion for Protective Order and the court, having reviewed the parties'

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 Case No.: 2:CV-05-17-EFS

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1 motion and finding good cause to enter a protective order in this matter, hereby
2 ORDERS that the provisions below shall control the designation and handling of
3 confidential documents and other information produced during the discovery
4 process in this litigation.

5 Defendants U.S. HealthWorks Medical Group of Washington, P.S., U.S.
6 HealthWorks of Washington, Inc., U.S. HealthWorks, Inc., and U.S. HealthWorks
7 Holding Company, Inc. ("Defendants"), and Plaintiffs John Hurley, Sonja
8 Rodgers, Jeffrey Foreman, Jennifer Franklin, and Lolita Perreira, on their behalf
9 and on behalf of a class of similarly-situated plaintiffs ("Plaintiffs"), by and
10 through their respective counsel of record, stipulate that certain documents
11 produced in this litigation contain or constitute information which is considered
12 confidential and/or trade secrets and, therefore, move this court to enter an order
13 protecting these documents from disclosure. The parties hereby stipulate and agree
14 to the following Protective Order in this litigation:

15 **1. Scope and Purpose of this Order:** This Protective Order shall
16 govern the designation and handling of protected documents produced, and all
17 confidential testimony and statements given by any witness, in response to any
18 formal discovery procedure, including designation and handling of nonpublic
19 information of a confidential nature. This Protective Order does not affect any
20 party's obligations under the Federal Rules of Civil Procedure to produce
21 documents as required by the discovery rules or an order of the court. The purpose
22 of this Protective Order is to facilitate the handling of nonpublic information of a
23 confidential nature.

24 **2. Documents or Information Subject to Protective Order:** Any
25 person who is required to produce documents or information in discovery in this
26 litigation may designate material produced as protected documents pursuant to this
27 Protective Order. All designations must be based on the good faith belief that the
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1 information constitutes (a) proprietary or sensitive business, personal, medical, or
2 financial information or (b) information subject to a legally-protected right of
3 privacy.

4 **3. Limitation on Use of Protected Documents or Witness Testimony:**
5 Protected documents or witness testimony or statements designated as
6 "CONFIDENTIAL," shall be used only for the purposes of this case, and will not
7 be used by any party or his or her counsel for any purpose unrelated to this case.

8 **4. Designating Protected Documents or Witness Testimony or**
9 **Statements as Protected by this Protective Order:**

10 **a. Marking Documents:** Protected documents shall be
11 designated as confidential by affixing to them the legend "CONFIDENTIAL," in a
12 size and location that makes the designation readily apparent, preferably in the
13 lower right hand corner.

14 **b. Designating Deposition Testimony, Statements or Exhibits:**
15 Any party or non-party wishing to designate deposition testimony or deposition
16 exhibits as confidential may do so on the record during the deposition, or within 30
17 days after receipt of the deposition transcript and exhibits by providing written
18 notice of the designation to the parties and any other affected person. The party
19 making the designation shall be responsible for assuring that those portions of the
20 deposition transcript and exhibits designated as confidential are appropriately
21 bound by the reporter.

22 **c. Subsequent Designation:** A protected document produced or
23 disclosed without a "CONFIDENTIAL" designation may be subsequently
24 designated by any party as confidential. In each such case, the designating person
25 shall provide to all other parties written notice of that designation and a copy of the
26 document marked in accordance with Paragraph 4. No person shall be liable for
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publicly disclosing a document marked "CONFIDENTIAL" if that disclosure occurred prior to receipt of written notice pursuant to this paragraph.

5. Maintaining Designated Protected Materials: Any protected document must be maintained in a manner reasonably calculated to preserve its confidentiality.

6. Disclosure and Use of Protected Materials: Except as set forth herein or by any subsequent court order, no protected documents shall be delivered, exhibited, or disclosed to any persons unless done in a manner in compliance with this Protective Order. No protected document may be used for any purpose other than the prosecution or defense of this court action.

a. Protected documents may be delivered, exhibited, or disclosed to the following persons, subject to the limitations of this Protective Order:

i. Counsel representing the parties in this case and any paralegal, clerical, or other employee of such counsel assisting in the prosecution or defense of this litigation;

ii. Any copying services hired by counsel to copy documents in bulk;

iii. The court or any court personnel subject to the limitations of paragraph 7;

iv. Any person testifying or attending a deposition, subject to this Protective Order;

v. Any person identified as having authored or having previously received the protected document(s);

vi. The parties and their representatives for any purpose in this litigation; and

vii. Former employees or agents, if disclosed during a deposition.

1 **b.** The parties' counsel shall require all persons, except those referred to
2 in paragraph 6(a), to read and agree to be bound by this Protective Order, before
3 being given access to any protected document.

4 **7. Filing of Protected Materials:**

5 **a. Filing Under Seal:** This stipulation does not limit the parties
6 from filing protected documents or testimony with the court, provided that such
7 document is relevant to a matter at issue before the court. However, where a party
8 is filing protected documents into the record it shall give notice to the designating
9 party so that the designating party may request that the protected document be filed
10 under seal or sealed by the court. The parties stipulate that they will, to the
11 greatest extent possible, protect the confidentiality of the protected documents
12 designated by the other party when making court filings, by including only the
13 relevant portion of the protected document.

14 **b. Failure to File under Seal:** If any party (filing party) fails to
15 file protected documents or information under seal, the producing party or any
16 party claiming confidentiality (producing party) can write to the filing party
17 requesting that counsel take immediate steps to place the protected document or
18 information under seal. If the filing party fails to take corrective action within
19 three days of notification, the producing party may move the court to request that
20 the court place the protected documents or information under seal.

21 **8. Producing Parties' Use of Protected Documents or Testimony:**
22 Nothing in this Protective Order limits a producing party's use of its own
23 information or documents or documents obtained through means other than
24 discovery requests or subpoenas in this litigation. Such disclosures shall not affect
25 any confidential designation made under the terms of this Protective Order.

26 **9. Inadvertent Disclosure:** The parties further agree that any party
27 inadvertently producing a privileged or work product document may, upon
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1 discovery of such inadvertent production, request return of the document. The
2 document(s) must be returned immediately to the producing party. Any other party
3 has the right to contest the assertion of any attorney-client or work product
4 designation by an appropriate motion to the court, but the document(s) will be
5 treated as privileged or work product in the interim.

6 **10. Disputes as to Confidentiality Designation:**

7 **a. Meet and Confer Requirement:** If, at any time, a party
8 disagrees with the designation of a protected document, the parties must first
9 attempt to resolve the dispute by conferring.

10 **b. Protective Order:** If the dispute is not resolved through the
11 meet-and-confer process within 15 days of notification of the receiving party's
12 disagreement with the designation, the producing party will have 30 days to move
13 the court for protection under the Federal Rules of Civil Procedure. The parties
14 may, however, agree to extend this period in order to bring any disputes about
15 designations of protected documents to the court, either at one time or in as
16 efficient a manner as possible.

17 **c. Status Pending Resolution of Dispute:** Any disputed
18 document or other material must be treated as a protected document under this
19 Protective Order until the court rules otherwise.

20 **11. Rights of Parties:** This Protective Order is without prejudice to the
21 right of any party to apply to the court for a protective order relating to any
22 confidential information or for an order permitting disclosure of any confidential
23 information beyond the terms of this Protective Order.

24 **12. Documents for Trial:** As part of the pretrial conference, the parties
25 must meet and confer to (a) reach an agreement as to the confidentiality of
26 information to be used at trial, and (b) designate documents as trial exhibits. If
27 necessary, the parties or the court will also develop a method for maintaining the
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1 confidentiality of such information and documents at trial. At the producing
2 party's request, any document previously designated "Confidential" must be used
3 at trial only in a clean or redacted copy without any such designation.

4 **13. Upon Case Completion:** When this action, including appeals,
5 concludes, and within 60 days after the litigation has been finally terminated, a
6 producing party may request the return or destruction of all protected documents
7 produced in this litigation, except those filed with the court or agreed by the parties
8 to be retained for purposes of effectuating any judgment. If such a request is made
9 in writing, the recipient of the request will have 60 days in which to (a) return the
10 documents, (b) destroy the documents, or (c) file a motion with the court seeking
11 an order upon good cause shown that documents should not be destroyed or
12 returned. Even if there is no request to return the documents within the 60 days,
13 the protected documents are still subject to the Protective Order.

14 **14. Commencement:** The parties agree, by signature of counsel below,
15 to abide by the terms of this Stipulation once it has been signed by counsel
16 regardless of when the Protective Order is signed by the Court.

17 Dated this 10th day of June, 2005.



Honorable Edward F. Shea
United States District Court
Eastern District of Washington

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23 Presented by:

24 JACKSON LEWIS LLP

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26 By: /s/ Kathryn Bradley
27 Kathryn Bradley, WSBA #31064
28 Nick Beermann, WSBA #30860

PROTECTIVE ORDER-7
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1
2 STAMPER, RUBENS, STOCKER
3 & SMITH P.S.

4 By:

5 Michael Church, WSBA #24957
6 Melody Farance, WSBA #34044
7 Attorneys for Plaintiffs
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PROTECTIVE ORDER-8
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2 Dated this ____ day of _____, 2005.
3
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5 _____
6 Honorable Edward F. Shea
7 United States District Court
8 Eastern District of Washington
9

10 Presented by:

11 JACKSON LEWIS LLP
12

13 By: _____

14 Kathryn Bradley, WSBA #15978
15 Nick Beermann, WSBA #30860
16

17 STAMPER, RUBENS, STOCKER
18 & SMITH P.S.
19

20 By: /s/ Melody D. Farance

21 Michael Church, WSBA #24957
22 Melody Farance, WSBA #34044
23 Attorneys for Plaintiffs
24
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